



Docket No. 12969

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: Bitler et al

Group Art Unit: 1714

Serial No.: 09/398,377

Examiner: Peter Szekely

Filing Date: 09/17/1999

Title: Polymeric Thickeners for Oil-containing Compositions

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Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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**REPLY**

**INTRODUCTORY COMMENTS**

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This paper is a reply to the Office Action mailed January 21, 2004, which is a final rejection.

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Re-examination, reconsideration and allowance are respectfully requested in view of the Amendments and Remarks below, and the accompanying Declaration. It is submitted that the accompanying declaration should be admitted, even if the finality of the office action is maintained, since most of the declaration does no more than affirm facts previously set out as part of the arguments in support of patentability, and insofar as it goes further than that, merely provides a technical explanation for the benefit of the Examiner. It is submitted that the amendments requested below should be entered, even if the finality of the office action is maintained, for the reasons set out below in connection with those amendments.

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**CERTIFICATE OF MAILING UNDER 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
On March 5, 2004 Typed name of person signing this certificate: T. H. P. Richardson

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### Petition to Withdraw the Finality of the Office Action

A Petition to Withdraw the Finality of the Office Action accompanies this Reply.

5 As noted in the accompanying Petition, on June 17, 2003, Applicants mailed a petition asking the Commissioner to direct the Examiner as to the correct construction of certain claims of this application. No decision has yet issued on that petition. However, the issues raised by the Petition mailed June 17, 2003, are substantially the same as the issues raised on a similar petition, also mailed June 17, 2003, on the continuation-in-

10 part application, Serial No. 09/810,920. The Decision on that similar petition (i.e. the Petition mailed June 17, 2003, on the continuation-in-part application) dismissed the petition because there was no issue ripe for petition, there being at that time no final rejection, and because, although it is desirable that any appeal should be based on an agreed construction of the claims, that issue did not appear to be a petitionable matter.

15 The decision also stated

*Before making the next office action final, the Examiner should clearly point out how he is interpreting the claims and provide clear reasoning as to why he is interpreting the claims in that manner. Applicant's arguments regarding this matter should be thoroughly addressed.*

20 *Upon receipt of a final office action, if Petitioner feels that a clear issue for appeal has not been developed, a petition to withdraw the finality can be filed.*

As noted in detail in the accompanying Petition, Applicant believes that the finality of the present final rejection should be withdrawn because the Examiner has failed to "clearly point out how he is interpreting the claims and provide clear reasoning as to why he is

25 interpreting the claims in that manner", and has failed to "thoroughly address" the Applicant's argument.

30 Amendments to the specification begin on page 4 of this Reply.

Amendments to the claims begin on page 5 of this Reply

Remarks/arguments begin on page 14 of this Reply.